

CLERKS OFFICE U.S. DIST. COURT
AT CHARLOTTESVILLE, VA

FILED
06/12/2019

JULIA C. DUDLEY, CLERK
BY: /s/ J. JONES
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
(Charlottesville Division)

UNITED STATES FOR THE USE
AND BENEFIT OF S.L. WILLIAMSON
COMPANY, INC.,

and

S.L. WILLIAMSON COMPANY, INC.,

Plaintiffs,

v.

Civil Action No. 3:19-cv-00034

TEAM HENRY ENTERPRISES, LLC,
Serve: Devon Henry, Registered Agent
1003 48th Street
Newport News, VA 23607

and

AEGIS SECURITY INSURANCE COMPANY,
Serve: CT Corporation System
4701 Cox Road, Suite 285
Glen Allen, VA 23060

Defendants.

COMPLAINT

Pursuant to 40 U.S.C. § 3133, the United States for the Use and Benefit of S.L. Williamson Company, Inc. and S.L. Williamson Company, Inc. ("S.L. Williamson"), by counsel, for their Complaint state as follows:

JURISDICTION

1. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and 40 U.S.C. § 3133(b). The Court has supplemental jurisdiction over the state law claims alleged in the Complaint pursuant to 28 U.S.C. § 1367.

VENUE

2. Venue is proper in this district and division pursuant to 40 U.S.C. § 3133(b)(3)(B) and 28 U.S.C. § 1391(b)(2). The contract at issue was to be performed and executed in Shenandoah National Park, including Albemarle, Greene, and Rappahannock counties.

THE PARTIES

3. S.L. Williamson is a corporation organized under the laws of the Commonwealth of Virginia with its principal place of business in Charlottesville, Virginia. It is authorized to and does transact business in the Commonwealth of Virginia.

4. Upon information and belief, Team Henry Enterprises, LLC (“Team Henry”) is a limited liability company organized under the laws of the Commonwealth of Virginia. It is authorized to and does transact business in the Commonwealth of Virginia.

5. Upon information and belief, Aegis Security Insurance Company (“Aegis”) is a Pennsylvania corporation. It is authorized to and does transact business in the Commonwealth of Virginia.

GENERAL ALLEGATIONS

6. On or about September 21, 2015, Team Henry entered into an agreement with the National Park Service (the “Prime Contract”), for work on the Skyline Drive in Shenandoah National Park, Virginia, Contract No. P15PC00792 (the “Project”).

7. Team Henry obtained a Miller Act payment bond for the Project from Aegis, Bond No. B10 025 995, dated September 30, 2015, in the penal sum of \$3,174,815.00 (the “Bond”).

8. The Bond provides in relevant part as follows:

OBLIGATION:

We, the Principal and Surety(ies) are firmly bound to the United States of America (hereinafter called the Government) in the above penal sum. For payment of the penal sum, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally... each Surety binds itself jointly and severally with the Principal, for the payment of the sum shown opposite the name of the Surety. If no limit is indicated, the limit of liability is the full amount of the penal sum.

(A true and accurate copy of the Bond is attached as Exhibit 1.)

9. In or about February 2016, Team Henry entered into a subcontract (the “Subcontract”) with S.L. Williamson.

10. Pursuant to the Subcontract, S.L. Williamson agreed to provide labor and material in connection with prosecution of the work provided for in the Prime Contract.

11. S.L. Williamson fully performed the Subcontract by providing all labor and material for the Project in a good and workmanlike and timely manner and fully in accordance with the Subcontract and other contract documents.

12. S.L. Williamson has satisfied all conditions precedent to payment under the Subcontract, the Bond and the Miller Act, 40 U.S.C. § 3133.

13. Team Henry failed and refused to pay \$150,679.82 properly due and owing under the Subcontract.

14. S.L. Williamson submitted a timely claim for payment to Aegis under the Bond. Aegis has failed and refused to pay S.L. Williamson \$150,679.82 properly due and owing under the Bond.

15. On June 19, 2018, S.L. Williamson, Team Henry, and Aegis entered into a Tolling Agreement tolling the applicability of all statutory and contractual limitations period applicable to any suit or action by S.L. Williamson against the Bond. (A true and

accurate copy of the Tolling Agreement is attached hereto as Exhibit 2.) The initial Tolling Agreement expired automatically on September 22, 2018.

16. S.L. Williamson, Team Henry, and Aegis entered into three amendments to the Tolling Agreement, eventually extending the period of the Tolling Agreement to June 15, 2019. (True and accurate copies of the Tolling Agreement amendments are attached hereto as Exhibit 3.)

COUNT I –MILLER ACT PAYMENT BOND CLAIM
(UNITED STATES v. AEGIS)

17. The United States for the Use and Benefit of S.L. Williamson Company, Inc. realleges and incorporates herein by reference the allegations set forth in Paragraphs 1 through 16, above.

18. S.L. Williamson last performed work at the Project on June 21, 2017.

19. The Tolling Agreement was entered into more than 90 days after and within one year from the day on which the last of labor was performed or material was supplied by S.L. Williamson. This action was timely brought within the period of the Tolling Agreement.

20. Aegis is obligated, pursuant to the Bond, to pay S.L. Williamson for the labor and material that S.L. Williamson provided to the Project and for which Team Henry failed to make payment.

21. Aegis has failed to fulfill its obligation under the Bond to pay S.L. Williamson for the labor and material that S.L. Williamson provided to the Project, and for which Team Henry failed to make payment.

22. S.L. Williamson is entitled to payment from Aegis under the Bond.

WHEREFORE, the United States for the Use and Benefit of S.L. Williamson Company, Inc., by counsel, prays that the Court enter judgment in favor of it and against Aegis Security Insurance Company in the amount of at least \$150,679.82, plus interest and costs as allowed by law, and grant such other and further relief as this Court deems appropriate.

COUNT II - BREACH OF CONTRACT
(S.L. WILLIAMSON v. TEAM HENRY)

23. S.L. Williamson realleges and incorporates herein by reference the allegations set forth in Paragraphs 1 through 22, above.

24. S.L. Williamson fully and properly performed all work under the Subcontract and satisfied all conditions precedent to payment.

25. Team Henry substantially and materially breached the Subcontract by failing and refusing to pay S.L. Williamson all sums justly due and owing under the Subcontract.

26. As a direct and proximate result of Team Henry's substantial and material breach of the Subcontract, S.L. Williamson has been damaged in the amount of at least \$150,679.82.

WHEREFORE, S.L. Williamson Company, Inc., by counsel, prays that the Court enter judgment in favor of it and against Team Henry Enterprises, LLC in the amount of at least \$150,679.82, plus interest and its costs as by law allowed, attorneys' fees pursuant to Section 14.2 of the Subcontract, and grant such other and further relief as the Court deems appropriate.

COUNT III – QUANTUM MERUIT
(S.L. WILLIAMSON v. TEAM HENRY)

27. S.L. Williamson realleges and incorporates herein by reference the allegations set forth in Paragraphs 1 through 26, above.

28. In the alternative to Count II, S.L. Williamson is entitled to the reasonable value of the labor, materials, equipment, and services that it provided and that were necessary for Team Henry to perform and complete its obligations under the Prime Contract.

29. Team Henry appreciated and knew that S.L. Williamson was providing labor, materials, equipment, and services on the Project and should reasonably have expected to pay S.L. Williamson the fair and reasonable value of its labor, materials, equipment, and services.

30. Team Henry benefited to the extent S.L. Williamson's labor, materials, equipment, and services enabled it to fulfill its obligations under the Prime Contract.

31. Team Henry accepted and retained the benefit of S.L. Williamson's labor, materials, equipment, and services, but Team Henry has failed and refused to pay S.L. Williamson.

32. S.L. Williamson has suffered damages and Team Henry has been unjustly enriched as a result of Team Henry's failure to pay S.L. Williamson for the labor, materials, equipment, and services that it provided.

33. \$150,679.82 is the fair and reasonable value of the labor, materials, equipment, and services that S.L. Williamson provided to the Project.

WHEREFORE, S.L. Williamson Company, Inc., by counsel, prays that the Court enter judgment in favor of it and against Team Henry Enterprises, LLC in the amount of

at least \$150,679.82, plus interest and costs as allowed by law to S.L. Williamson Company, Inc., and grant such other and further relief as this Court deems appropriate.

Respectfully Submitted,

THE UNITED STATES FOR THE USE AND
BENEFIT OF S.L. WILLIAMSON COMPANY,
INC.

and

S.L. WILLIAMSON COMPANY, INC.

By Counsel

COUNSEL:

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